

**567—64.5(455B) Notice and public participation in the individual NPDES permit process.**

**64.5(1) *Formulation of tentative determination and draft NPDES permit.*** The department shall make a tentative determination to issue or deny an NPDES permit for the discharge described in a Ref-use Act or NPDES application in advance of the public notice of 64.5(2). If the tentative determination is to issue the NPDES permit, the department shall prepare a draft NPDES permit. The draft permit shall include the following:

- a.* Effluent limitations identified pursuant to 64.6(2) and 64.6(3), for those pollutants proposed to be limited.
- b.* If necessary, a proposed schedule of compliance, including interim dates and requirements, identified pursuant to 64.6(4), for meeting the effluent limitations and other permit requirements.
- c.* Any other special conditions (other than those required in 64.6(5)) which will have a significant impact upon the discharge described in the NPDES application.

**64.5(2) *Public notice.***

*a.* Prior to the issuance of an NPDES permit, public notice shall be circulated in a manner designed to inform interested and potentially interested persons of the proposed discharge and of the tentative determination to issue or deny an NPDES permit for the proposed discharge. Procedures for the circulation of public notice shall include at least the procedures of subparagraphs (1) to (3).

(1) The public notice shall be circulated by the applicant within the geographical areas of the proposed discharge by posting the public notice in the post office and public places of the city nearest the premises of the applicant in which the effluent source is located; by posting the public notice near the entrance to the applicant's premises and in nearby places; and by publishing the public notice in local newspapers and periodicals, or, if appropriate, in a newspaper of general circulation.

(2) The public notice shall be mailed by the department to any person upon request.

(3) Upon request the department shall add the name of any person or group to the mailing list, described in 567—4.2(455B), to receive copies of all public notices concerning proposed NPDES permits within the state or within a certain geographical area and shall mail a copy of all public notices to such persons.

*b.* The department shall provide a period of not less than 30 days following the date of the public notice during which time interested persons may submit their written views on the tentative determinations with respect to the NPDES application. All written comments submitted during the 30-day comment period shall be retained by the department and considered by the director in the formulation of the director's final determinations with respect to the NPDES application. The period for comment may be extended at the discretion of the department.

*c.* The contents of the public notice of a proposed NPDES permit shall include at least the following:

- (1) The name, address, and telephone number of the department.
- (2) The name and address of each applicant.
- (3) A brief description of each applicant's activities or operations which result in the discharge described in the NPDES application (e.g., municipal waste treatment plant, corn wet milling plant, or meat packing plant).
- (4) The name of the waterway to which each discharge of the applicant is made and a short description of the location of each discharge of the applicant on the waterway indicating whether such discharge is a new or an existing discharge.
- (5) A statement of the department's tentative determination to issue or deny an NPDES permit for the discharge or discharges described in the NPDES application.
- (6) A brief description of the procedures for the formulation of final determinations, including the 30-day comment period required by paragraph "b" of this subrule and any other means by which interested persons may influence or comment upon those determinations.
- (7) The address and telephone number of places at which interested persons may obtain further information, request a copy of the draft permit prepared pursuant to 64.5(1), request a copy of the fact sheet, if any, described in 64.5(3) and inspect and copy NPDES forms and related documents.

**64.5(3) *Fact sheets.***

*a.* For every discharge which has a total volume of more than 500,000 gallons on any day of the year, the department shall prepare and, upon request, shall send to any person a fact sheet with respect to the application described in the public notice. The contents of such fact sheets shall include at least the following information:

(1) A sketch or detailed description of the location of the discharge described in the NPDES application.

(2) A quantitative description of the discharge described in the NPDES application which includes at least the following: the rate or frequency of the proposed discharge (if the discharge is continuous, the average daily flow in gallons per day or million gallons per day); for thermal discharges subject to limitation under the Act, the average summer and winter discharge temperatures in degrees Fahrenheit; and the average daily discharge in pounds per day of any pollutants which are present in significant quantities or which are subject to limitations or prohibition under Section 301, 302, 306 or 307 of the Act and regulations published thereunder.

(3) The tentative determinations required under 64.5(1).

(4) A brief citation, including a brief identification of the uses for which the receiving waters have been classified, of the water quality standards applicable to the receiving waters and effluent standards and limitations applicable to the proposed discharge.

(5) A fuller description of the procedures for the formulation of final determinations than that given in the public notice including: the 30-day comment period required by 64.5(2); procedures for requesting a public hearing and the nature thereof; and any other procedures by which the public may participate in the formulation of the final determinations.

*b.* Upon request the department shall add the name of any person or group to a mailing list, described in 4.2(455B), to receive copies of fact sheets and shall mail a copy of all fact sheets to such person.

**64.5(4)** *Notice to other government agencies.* Prior to the issuance of an NPDES permit, the department shall notify other appropriate government agencies of each complete application for an NPDES permit and shall provide such agencies an opportunity to submit their written views and recommendations. Procedures for such notification shall include the procedures of paragraphs “*a*” to “*d*.”

*a.* At the time of issuance of public notice pursuant to 64.5(2), the department shall transmit the fact sheet, if any, to any other state whose waters may be affected by the issuance of the NPDES permit and, upon request, the department shall provide such state with a copy of the NPDES application and a copy of the proposed permit prepared pursuant to 64.5(1). Each affected state shall be afforded an opportunity to submit written recommendations to the department and to the regional administrator which the director may incorporate into the permit if issued. Should the director fail to incorporate any written recommendation thus received, the director shall provide to the affected state or states and to the regional administrator a written explanation of the reasons for failing to accept any written recommendation.

*b.* At the time of issuance of public notice pursuant to 64.5(2), the department shall mail the public notice for proposed discharges (other than minor discharges) into navigable waters and the fact sheet, if any, to the appropriate district engineer of the army corps of engineers.

(1) The department and the district engineer for each corps of engineers district within the state may arrange for: notice to the district engineer of minor discharges; waiver by the district engineer of the right to receive fact sheets with respect to classes, types, and sizes within any category of point sources and with respect to discharges to particular navigable waters or parts thereof; and any procedures for the transmission of forms, period of comment by the district engineer (e.g., 30 days), and for objections of the district engineer.

(2) A copy of any written agreement between the department and a district engineer shall be forwarded to the regional administrator and shall be available to the public for inspection and copying in accordance with 567—Chapter 4.

*c.* Upon request the department shall mail the public notice and fact sheet, if any, to any other federal, state, or local agency, or any affected country, and provide such agencies an opportunity to respond, comment, or request a public hearing pursuant to 64.5(6).

*d.* The department shall mail the public notice and fact sheet, if any, for any proposed NPDES permit within the geographical area of a designated and approved management agency under Section 208 of the Act (33 U.S.C. 1288).

*e.* The department shall mail the public notice and fact sheet, if any, to the local board of health for the purpose of assisting the applicant in coordinating the applicable requirements of the Act and Iowa Code chapter 455B with any applicable requirements of the local board of health.

**64.5(5)** *Public access to NPDES information.* The records of the department connected with NPDES permits are available for public inspection and copying to the extent provided in 567—Chapter 4.

**64.5(6)** *Public hearings on proposed NPDES permits.* The applicant, any affected state, the regional administrator, or any interested agency, person or group of persons may request or petition for a public hearing with respect to an NPDES application. Any such request shall clearly state issues and topics to be addressed at the hearing. Any such request or petition for public hearing must be filed with the director within the 30-day period prescribed in 64.5(2)“b” and shall indicate the interest of the party filing such request and the reasons why a hearing is warranted. The director shall hold an informal and noncontested case hearing if there is a significant public interest (including the filing of requests or petitions for such hearing) in holding such a hearing. Frivolous or insubstantial requests for hearing may be denied by the director. Instances of doubt should be resolved in favor of holding the hearing. Any hearing held pursuant to this subrule shall be held in the geographical area of the proposed discharge, or other appropriate area in the discretion of the director, and may, as appropriate, consider related groups of permit applications.

**64.5(7)** *Public notice of public hearings.*

*a.* Public notice of any hearing held pursuant to 64.5(6) shall be circulated at least as widely as was the notice of the NPDES application.

(1) Notice shall be published in at least one newspaper of general circulation within the geographical area of the discharge;

(2) Notice shall be sent to all persons and government agencies which received a copy of the notice or the fact sheet for the NPDES application;

(3) Notice shall be mailed to any person or group upon request; and

(4) Notice pursuant to subparagraphs (1) and (2) of this paragraph shall be made at least 30 days in advance of the hearing.

*b.* The contents of public notice of any hearing held pursuant to 64.5(6) shall include at least the following:

(1) The name, address, and telephone number of the department;

(2) The name and address of each applicant whose application will be considered at the hearing;

(3) The name of the waterway to which each discharge is made and a short description of the location of each discharge on the waterway;

(4) A brief reference to the public notice issued for each NPDES application, including identification number and date of issuance;

(5) Information regarding the time and location for the hearing;

(6) The purpose of the hearing;

(7) A concise statement of the issues raised by the person requesting the hearing;

(8) The address and telephone number of the premises where interested persons may obtain further information, request a copy of the draft NPDES permit prepared pursuant to 64.5(1), request a copy of the fact sheet, if any, prepared pursuant to 64.5(3), and inspect and copy NPDES forms and related documents; and

(9) A brief description of the nature of the hearing, including the rules and procedures to be followed.